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TO: Commissioner for Patents YOUR REF: 10/605,510
FROM: James T. Cronvich OUR REF: 2225.0
BY: James T. Cronvich FAX: 703-872-9306
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Contents:
1. Transmittal Letter w/ Certificate of Transmission
2. Response to Election Requirement (2 pages)

James T. Cronvich
Aug. 3/03

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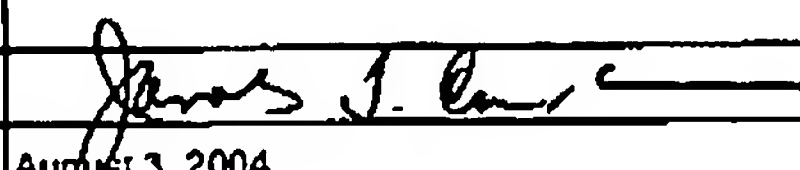
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/805,510	
	Filing Date	10/03/2003	
	First Named Inventor	COSTANZO	
	Art Unit	3651	
	Examiner Name	RIDLEY, Richard	
Total Number of Pages in This Submission	3	Attorney Docket Number	2225.0

ENCLOSURES (Check all that apply)		
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Date	August 3, 2004

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

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In re the application of:

Mark Costanzo

Docket No.: 2225.0

Serial Number: 10/605,510

Examiner: Ridley, Richard

Filed: 10/03/2003

Group Art Unit: 3651

FOR: ARTICLE-ORIENTING CONVEYOR

RESPONSE TO ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This timely responds to the election requirement of July 19, 2004.

The Examiner required applicants to elect a species. Applicants provisionally elect, with traverse, Species I, as represented by FIGS. 1 - 4. Claims 1-6, 8-12, 14-16, 19, 21-27, 29, and 31, some of which are generic to some or all the species defined by the Examiner, read on provisionally elected Species I. Contrary to the Examiner's contention that none of the claims appears to be generic, applicant maintains that at least claim 14 is generic to all the species.

Applicant traverses the election requirement. According to MPEP §803: "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." MPEP §803 also provides: "For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP

§808.02." In this case, the Examiner did not make the requisite *prima facie* showing of serious burden. Therefore, the requirement is improper and should be withdrawn. Furthermore, the search necessary for the examination of generic claim 14 and other generic claims would encompass the same field as searches for the other species and would not unduly burden the Examiner. In view of these remarks, applicant kindly requests the Examiner to reconsider the election requirement and to withdraw it.

Because this response is being timely filed within one month of the Office Action, no fee should be due. But, if a fee is deemed necessary, authorization to charge it to Deposit Account No. 12-0090 is hereby given.

Respectfully submitted,
Mark Costanzo

Date: Aug. 3, 2004

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